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E.O. 12958: DECL: 07/17/2018

TAGS: [KACT](#) [PARM](#) [START](#) [JCIC](#) [INF](#) [US](#) [RS](#) [UP](#) [BO](#) [KZ](#)

SUBJECT: JCIC-XXXIII: (U) WORKING GROUP MEETING ON
COMPLETION OF CONTINUOUS MONITORING, NOVEMBER 13, 2008

REF: A. STATE 115554 (JCIC-DIP-08-008A)
[1](#)B. STATE 115555 (JCIC-DIP-08-008B)
[1](#)C. 00 GENEVA 6828 (SVC-XXVI-022)
[1](#)D. GENEVA 602 (JCIC-XXXII-017)

Classified By: Jerry A. Taylor, United States Representative
to the Joint Compliance and Inspection Commission.
Reasons: 1.5(b) and (d).

[1](#)1. (U) This is JCIC-XXXIII-009.

[1](#)2. (U) Meeting Date: November 13, 2008
Time: 3:30 P.M. - 5:00 P.M.
Place: U.S. Mission, Geneva

SUMMARY

[1](#)3. (S) Following the introduction of the issue at a Heads of
Delegation (HOD) Meeting, a Working Group (WG) Meeting was
held at the U.S. Mission on November 13, 2008, to discuss the
completion of continuous monitoring at the Votkinsk Portal
Monitoring Facility (VPMF). The United States, Russia, and
Kazakhstan were represented.

[1](#)4. (S) The U.S. Delegation provided U.S.-proposed texts of a
draft JCIC Agreement on Principles and Procedures for
Completion of Continuous Monitoring Activities, and draft
Exchanges of Letters on Ground Transportation and Settlement
of Accounts related to closing the VPMF (Refs A and B). The
Russian Delegation said it found the U.S. approach very
acceptable, but had concerns about whether any documents
signed by JCIC representatives, or within the framework of
the JCIC, would have any legal standing once the Treaty
expired or was superseded.

INTRODUCING...COMPLETION OF
CONTINUOUS MONITORING

¶15. (S) At a HOD Meeting at the Russian Mission on November 13, 2008, the Parties discussed the U.S. approach to Completion of Continuous Monitoring Activities at Votkinsk. Kashirin thanked the United States for its hard work preparing the draft documents and highlighted the fact that this was a complicated issue that would require a lot of work. Because the United States provided the documents so close to the session, and they were so voluminous, it would take some time before the Russian side would be ready to discuss the documents in any detail.

¶16. (S) Kashirin then stated that the Russian Federation agreed with the format of using a JCIC agreement to codify the requirements for completing the monitoring mission, and an exchange of letters to handle cost settlement and provision of ground transportation to facilitate the removal of equipment from the VPMF.

¶17. (S) Kashirin highlighted one issue that was confusing to the Russian side. He asked about the legitimacy of signatures of the JCIC Heads of Delegation (HODs) on such letters. The Russian concern was if the HODs signed as representatives to the JCIC, would those signatures be valid after the Treaty expired or was superseded by a new agreement?

¶18. (S) Kashirin opined that the parties might need as much as half a year to finalize the necessary agreements for completing monitoring at Votkinsk and another half-year to implement them.

¶19. (S) Taylor thanked the Russian side for its views and looked forward to progress on this issue in the WG.

THE WORKING GROUP IS
WHERE THE MAGIC HAPPENS

¶10. (S) Smith opened the WG meeting following the HOD and provided drafts of the U.S.-proposed draft JCIC Agreement, and a draft Exchange of Letters on Ground Transportation, and a draft Exchange of Letters on Settlement of Accounts. Smith then began a review of the draft documents noting that the U.S. approach was modeled on the process used at the completion of continuous monitoring under the INF Treaty (Ref C). He highlighted important differences between then and now. First, the START Treaty would expire or be superseded and so it was necessary to have a mechanism in place to handle cost settlement after START no longer existed. Second, there was not a ground transportation-type arrangement in place that needed to be modified to support completion of INF continuous monitoring.

¶11. (S) Smith explained that the purpose of the draft JCIC Agreement was to add Annex 16 to the Inspection Protocol (IP). This new annex would establish specific procedures and requirements related to the completion of continuous monitoring at the VPMF.

¶12. (S) Smith then reviewed the Exchange of Letters on Settlement of Accounts which would extend the existing cost settlement procedures in Annex 14 of the IP beyond the date of expiration or supersession of the Treaty. He explained that, because costs related to the completion of continuous monitoring would be settled after the Treaty expired or was superseded, a specific process would be needed to handle these costs.

¶13. (S) Smith then introduced the Exchange of Letters on Ground Transportation. He explained the United States envisioned one last truck departing the VPMF after Treaty expiration or supersession. This truck would transit through Russia and Belarus, drop off cargo in Germany, and then transit back through Belarus and Russia. This process would take several days following the end of the Treaty. This Exchange of Letters would extend the provisions of the

existing ground transportation agreement to cover that period.

¶14. (S) Ryzhkov responded explaining that the Russian Federation found the U.S. approach very acceptable, particularly with the format of the draft JCIC Agreement and the Exchange of Letters. He opined that despite the late receipt of the documents, the Russian Delegation would do its best to solve this issue during the current session. He added that there was red tape and beauracracy in Russia as well and these things would require time to navigate through.

¶15. (S) During JCIC-XXXII the Russian Federation provided a paper containing questions on closing Votkinsk (Ref D). Ryzhkov related that the U.S. non-paper that provided the response to that paper (Ref A) mentioned a number of legally-binding documents that the United States drew from when developing these draft documents. Some of these related to START and some to INF. He explained that the Russian Federation did not believe the INF-related documents were all good examples because the INF Treaty had an indefinite duration and that theoretically the Special Verification Commission could meet and decide on measures related to the INF Treaty and put them into force anytime.

¶16. (S) Ryzhkov noted that Russia's principal concern was the fact the activities in the two letters would occur in a period of time after expiration or supersession of the Treaty and that JCIC representatives would have no authority to bind their respective governments after December 5, 2009, because the JCIC would not exist, and he questioned whether those representatives could sign such agreements. He remarked that Russian legislation may pose difficulties with respect to the settlement of costs once START is no longer in force, although he admitted that he would be happy if it turned out that he was wrong in his assessment. He then explained that Russia needed to conduct a more thorough review by its legal experts, but if those experts determined the U.S. approach was possible then Russia would support it.

¶17. (S) Ryzhkov offered an alternative option where officials from the Ministry of Foreign Affairs/State Department would sign the required documents because, in their normal professional role they were authorized representatives of their respective governments.

¶18. (S) Smith then turned over the WG to Brown who offered a more detailed explanation of the U.S. thought process as these documents were developed.

GREAT MINDS THINK ALIKE

¶19. (S) Brown explained that the concerns Russia had raised about the intended duration of the agreements were the same ones the United States had identified while developing the documents. The United States recognized that a JCIC Agreement would only remain in force until expiration or supersession of the Treaty. The remedy that the United States was proposing would be an Exchange of Letters, but a determination would need to be made regarding who would sign them and what the duration would be. Brown highlighted that neither of the draft letters identified a signing official, and that was deliberate to allow the parties to discuss their respective practices. He explained in any event these would be government-to-government agreements and that any official specifically authorized to sign them would be sufficient, even if that official at the time of signing was that government's representative to the JCIC.

¶20. (S) Brown concluded his remarks by saying that to be legally sufficient all agreements required an entry into force date and duration, and that the draft letters had both conditions clearly defined in them.

¶21. (S) Ryzhkov explained that Brown's remarks answered several questions the Russian Federation had and reiterated Russia would need more time for legal review of the

documents, adding that the Russian lawyer would be in Geneva the following week and that her main task, would be to review the U.S.-proposed texts. (Begin Comment: In a side-bar, Ryzhkov admitted to Brown that he understood that any official could be authorized by his government to sign the letter but he had raised the issue to make certain that the required procedures were followed so that there was no question that the letters were binding after START is no longer in force. End Comment.)

¶22. (S) Smith thanked Brown and then began a more detailed review of the draft JCIC Agreement. He summarized the document, highlighting the themes of each section, and the specific requirements of both Parties.

¶23. (S) Ryzhkov expressed gratitude for the detailed explanation and explained that he had a few questions but would wait until the next WG.

¶24. (S) Smith closed the WG hopeful that the review of the draft agreement had been helpful to the members.

¶25. (U) Documents exchanged:

-- U.S.:

- U.S.-Proposed Text for an Agreement on Principles and Procedures for Completion of Continuous Monitoring Activities, dated November 13, 2008;
- U.S.-Proposed Text for an Exchange of Letters on Ground Transportation, dated November 13, 2008;
- U.S.-Proposed Text for an Exchange of Letters on Settlement of Accounts, dated November 13, 2008; and
- U.S. Non-Paper on the U.S. Approach to Closing the Portal Monitoring Facility at Votkinsk, dated November 13, 2008.

¶26. (U) Participants:

U.S.

Mr. Taylor
Mr. Smith
Mr. Brown
Lt Col Comeau
Mr. DeNinno
Mr. Dunn
Maj Edinger
Mr. Fortier
Mr. Johnston
Mr. Miller
LTC Oppenheim
CDR Rust
Col Summers
Mr. Yaguchi
Ms. Gross (Int)

Kazakhstan

Col Akhmetalin
Mr. Kasenov

Russia
Mr. Kashirin
Col Ryzhkov
Capt(1st Rank) Kuz'min
Col Novikov
Mr. Bolotov
Mr. Gusev (Int)

¶27. (U) Taylor sends.
TICHENOR

NNNN

End Cable Text